

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Carolyn R. Holcombe,)	
)	
Plaintiff,)	Civil Action No. 6:08-0604-WMC
)	
vs.)	<u>ORDER</u>
)	
Wal-Mart Supercenter Store #2265,)	
)	
Defendant.)	
)	

This matter is before the court on the defendant's motion in limine to exclude the expert testimony of Dr. Charles B. Thomas (doc. 53). The case was referred to this court for disposition on October 22, 2008, upon consent of the parties pursuant to Title 28, United States Code, Section 636(c), and Local Rule 73.01(B), DSC, by order of The Honorable G. Ross Anderson, Jr., United States District Judge. In her complaint, the plaintiff alleges that she was injured while shopping at Wal-Mart as a result of the defendant's employee's negligence.

Under the scheduling order in this case, the deadline for identifying all experts to be presented at trial was May 14, 2008, and discovery was to be completed by August 12, 2008, unless extended by agreement of the parties. The defendant states the parties had no such agreement. Pretrial disclosures were due by October 3, 2008. The instant action is set for jury trial on December 8, 2008.

In her pretrial disclosures filed on October 16, 2008, the plaintiff identified Charles B. Thomas, M.D., her treating orthopaedic surgeon, as a witness whose testimony would be presented by deposition at trial. By letter dated October 27, 2008, the plaintiff's counsel served the defendant with a Notice of Video Deposition of Dr. Thomas. In her Rule

26.03 answers to interrogatories, which were filed on October 31, 2008, the plaintiff identified Dr. Thomas as an expert witness. The defendant filed a previous motion to exclude the plaintiff's pretrial disclosures (doc. 39) and a motion to quash the deposition notice of Dr. Thomas (doc. 43). This court denied those motions on November 3, 2008.

The defendant's motion in limine to exclude the expert testimony of Dr. Thomas (doc. 53) is hereby denied.

IT IS SO ORDERED.

s/William M. Catoe
United States Magistrate Judge

December 4, 2008

Greenville, South Carolina